



# **CITY OF SANTA BARBARA**

## **COUNCIL AGENDA REPORT**

**AGENDA DATE:** January 13, 2009

**TO:** Mayor and Councilmembers

**FROM:** Engineering Division, Public Works Department

**SUBJECT:** Purchase Of Easements At 513 And 517 De La Vina Street For The Haley/De La Vina Street Bridge Replacement Project

### **RECOMMENDATION:**

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Accepting Easements at 513 and 517 De La Vina Street, Accepting a Quitclaim Interest in an Adjacent Portion of Mission Creek, and Authorizing the Public Works Director, Subject to Review and Approval by the City Attorney, and Subject to Review and Advance Written Approval of Necessary Easement Purchase Costs by the State of California Department of Transportation, to Approve an Easement Purchase Agreement and Related Documents, and which Authorizes the Payment of Just Compensation to the Property Owner in the Amount of \$160,000.

### **DISCUSSION:**

The City has purchased various properties and easements required for the proposed Haley/De La Vina Bridge Replacement Project (Project). To continue with this Project, the City also needs to purchase certain remaining permanent and temporary easements at the property known as 513 and 517 De La Vina Street (Attachment).

To date, the City has successfully purchased two entire properties located at 136 West Haley Street and at 434-436 De La Vina Street, and temporary construction easements at 132 and 119 West Haley Street, and 507 Brinkerhoff Avenue. The City has also purchased a permanent and a temporary easement at 208, 210, and 212 West Haley Street.

In order to prevent possible delay of the City's purchase of remaining easements and lands needed for the Project, Council adopted Resolutions of Necessity on July 1, 2008, which authorized the City Attorney to initiate steps to acquire all remaining interests by the use of eminent domain if negotiations with respective owners are unsuccessful. This action by Council included adoption of Resolution of Necessity No. 08-070 to authorize eminent domain to acquire the permanent and temporary easements at 513 and 517 De La Vina Street if discussions with the Owner were unsuccessful.

The City provided a written offer to Joyce M. Eggers, Trustee of the Eggers Family Trust (the Owner of the affected property) to purchase these easements, based on an appraisal approved by the State of California Department of Transportation (Caltrans). The Owner subsequently rejected this offer and made a counter-offer to the City that was rejected.

The City Attorney's office filed an eminent domain lawsuit against the Owner on September 24, 2008, and a Motion for Order of Possession on November 13, 2008. Subsequent to filing the lawsuit, the Owner and City continued to discuss settlement, resulting in the Owner's final offer to settle the lawsuit. The settlement terms are contained in the Easement Purchase Agreement.

An Easement Purchase Agreement is required for the City's purchase of the easements at this property, and this Agreement has been executed and delivered to City staff by the Owner, thereby avoiding the need for further eminent domain action. The Agreement provides, among other things, for the City's purchase of all easements on this property for total consideration in the amount of \$160,000, plus applicable closing costs, and agreement by the City to dismiss its eminent domain lawsuit against the Owner at the close of escrow.

The City's acquisitions must be obtained without delay to obtain right of way certification from Caltrans, so that the City can request construction funding. The proposed Resolution will allow the Public Works Director to execute the Easement Purchase Agreement with Ms. Eggers, subject to approval by the City Attorney, and subject to advanced written approval of necessary easement purchase costs by Caltrans, and authorize the Public Works Director to execute any documents required to accomplish the City's acquisition of the easements. This Resolution demonstrates Council's acceptance of the easement described in the Mission Creek Exclusive Easement Deed signed by Ms. Eggers. The Resolution also demonstrates Council's acceptance of the adjacent Mission Creek land area, described in the Quitclaim Deed signed by Ms. Eggers, which relinquishes any claim of ownership in the floodway area of Mission Creek adjacent to the subject property.

The businesses located on the property known as 513 and 517 De La Vina Street are operated by certain tenants. The tenants will not be displaced by the Project.

#### **BUDGET/FINANCIAL INFORMATION:**

The steps by the City to purchase all properties and easements required for the Project are being overseen by Caltrans because 88.53% of the City's eligible Project and right of way costs will be reimbursed by the Federal Highway Administration (FHWA) through Caltrans. The City will be responsible for 11.47% of the eligible costs. The right of way costs set forth in the proposed Easement Purchase Agreement are subject to approval by Caltrans.

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The shared acquisition costs relating to the property at 513 and 517 De La Vina Street are outlined as follows:

FHWA @ 88.53%	=	\$141,648
City @ 11.47%	=	\$ 18,352

There are sufficient City funds in the Streets Fund to cover the City's costs.

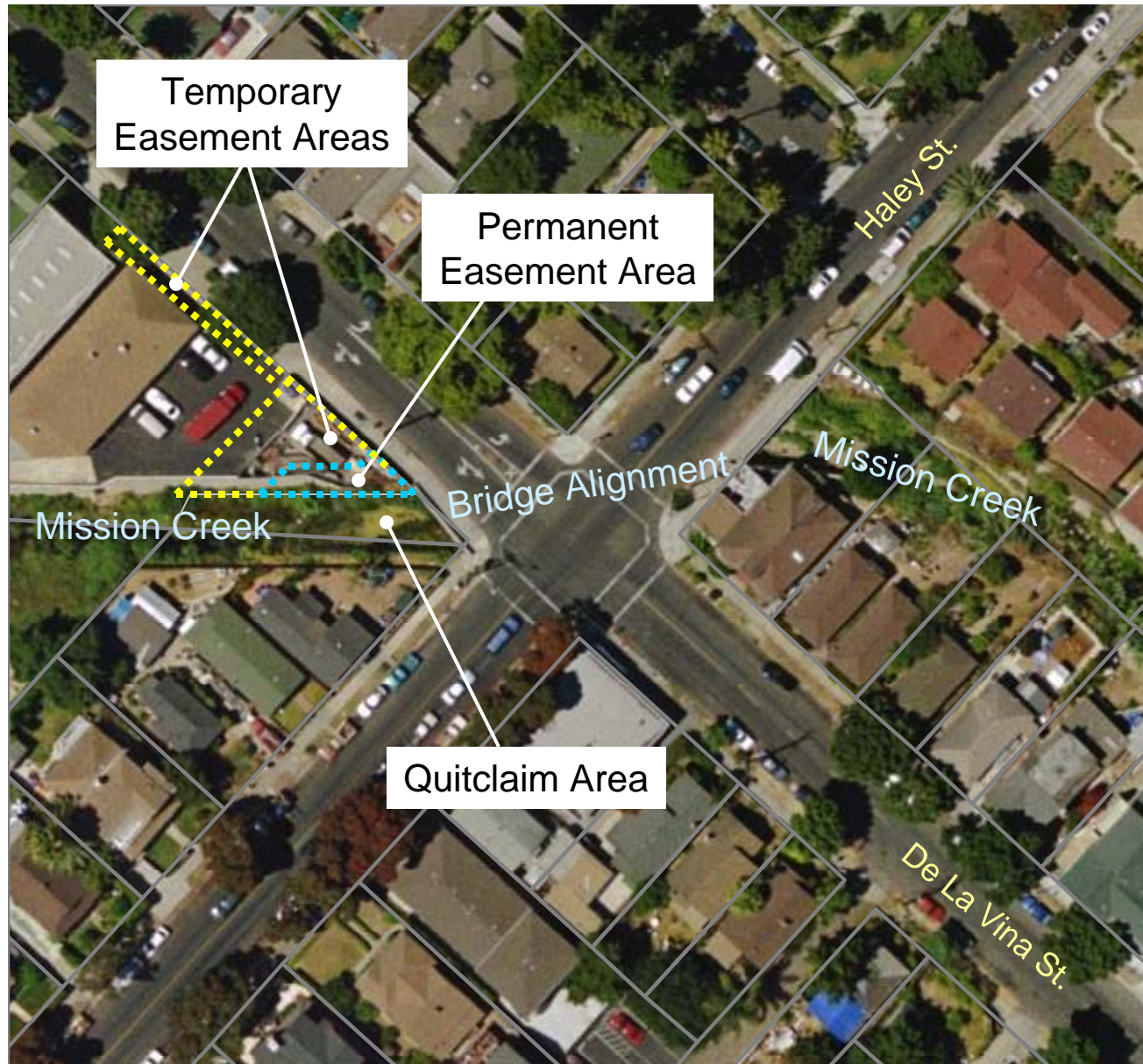
**ATTACHMENT:** Vicinity Photo - Easements at 513 and 517 De La Vina Street

**PREPARED BY:** Pat Kelly, Assistant Public Director/City Engineer/DI/kts

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office

## ATTACHMENT



Vicinity Photo – 513 & 517 De La Vina Street